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II. BOOK REVIEWS.

CONSTITUTIONAL LAW OF ENGLAND. By Edward Wavell Ridges. London: Stevens & Sons, Limited. 1905. pp. xxxii, 458. 8vo.

This is a book of the hour, inspired by the two great issues that engross the attention of the thinking classes in England at the present moment, imperial federation, political and commercial. The author evidently has these matters very much at heart and has written with the aim of furnishing all those who have the same interest a practical handbook enabling them to post themselves rapidly on any of the numerous details of the constitutional mechanism that holds together the complex political entity known as the British Empire. In other words, it would be useless to turn to it for a careful exposition of the evolution of the constitution as it exists to-day, or again for a broad and philosophic treatment of constitutional questions such as we might expect from Mr. James Bryce. Mr. Ridges' aim is closely circumscribed by existing conditions; his method is too handbooky, if the term may be used, to permit digressive and comparative disquisitions.

Within the limits he has chosen Mr. Ridges does his work well. He divides and subdivides his subject clearly, and details are easy to find. He has six principal parts: 1, The Nature and Sources of English Constitutional Law; 2, The Legislature and the Public Revenue; 3, The Executive; 4, The Judiciary; 5, The Church; the Navy and the Army; 6, Countries subject to the laws of England. Within these parts are chapters and sections that range in matter from Wei-Hai-Wei to the Isle of Man, from the Indian Civil Service to the Court of Pied Poudre, and from the origin of the title of Duke to the incidence of the death duties.

Mr. Ridges attains a good standard of accuracy; among his infrequent slips the following may be noted. In Miller's case (p. 70) Wilkes was not, as stated, committed to the Tower. He refused to appear before the House of Commons except as member for Middlesex, and the House shirked the fight and let him go. George III. presided over a Cabinet Council on at least one occasion, and it is incorrect to say (p. 143) that "since the reign of George I the Crown has ceased to attend meetings of the Cabinet." At p. 15 there is a bad error in the number of States composing the American Union. Mr. Ridges defines constitutional law as embracing laws proper and conventions. These conventions he groups under eleven heads, the last two of which appear open to some exception. These two constitutional conventions are thus stated:

"(10) The foreign policy of the country ought to be conducted according to the wishes of the two Houses of Parliament, and in case of difference between the Houses, in accordance with the wishes of the House of Commons.

"(11) Declaration of war or peace against the will of the House of Commons is unconstitutional. In cases of sudden emergency (e. g. insurrection or invasion), if the Ministry require additional authority, they should convene Parliament."

Now if a convention means an actual tacit understanding, then surely Mr. Ridges goes too far in trying to make the ultimate power of the electorate anything more than a potential factor in this case. The attitude of the House of Commons towards the conduct of foreign affairs has long been one into which an element of self-effacement has entered. The Crown has continued to exercise a large amount of discretion, whether acting on its own initiative or on the advice of ministers. Not only is it the case that treaties implying war or concluding peace are constitutionally valid without reference to Parliament, but the House of Commons has rarely, if ever, shown any disposition to assert any greater right in such a case than that which it holds in every case of passing a hostile vote against the responsible Ministry. It might even be said that under the last two British sovereigns, Victoria and Edward, the House of Commons has viewed with complacency the personal intervention of the sovereign on more than one occasion. In another important question, that of imperial federation,

Mr. Ridges appears to miss some important points. His statement that "the federation of all the Australasian colonies . . . under the Commonwealth of Australia Constitution Act, 1900, marks another stage in the advance of the Empire towards cohesion and unity," is one that will not find universal acceptance; to many it appears that the assimilation of the Australasian constitution to that of this country makes eventually for a complete regrouping of the Anglo-Saxon communities. Then again in discussing the various schemes of federation before the British public at present, he hardly does justice to the least ambitious of them, that of which Sir Frederick Pollock is the energetic sponsor. Mr. Ridges' point is that a committee of the Privy Council specially constituted to advise on colonial affairs would have no weight for lack of legislative or executive functions; but the answer to this is that this body might, as it became more and more useful, gradually work its way into a position of constitutional importance very much as the Cabinet has, which, indeed, is the main hope of those who advocate this measure.

The criticisms made are of details and do not affect the value of the book which, as a handbook for students or for those interested in the question of federation, should certainly prove a convenient guide.

R. M. J.

A SELECTION OF CASES ILLUSTRATIVE OF THE ENGLISH LAW OF TORTS.

By Courtney Stanhope Kenny. Cambridge: University Press. 1904. pp. xiv, 632. 8vo.

This attractive collection of cases published by the Cambridge Press inevitably suggests comparison with a similar volume lately issued at Oxford under the editorship of Messrs. Radcliffe and Miles. (See 18 HARV. L. REV. 159.) Both books are avowedly designed to accompany Sir Frederick Pollock's treatise on Torts; but Dr. Kenny's book follows Sir Frederick's classification more closely and is, on the whole, more satisfactory than the Oxford compilation. A logical development of the subject is evident, both in the subdivisions and in the cases under the various heads. Yet, perhaps, this collection errs in ambitiously including too much within its scope. Thus the cases on Principal and Agent might have been spared from a selection of illustrative cases on Torts. And while one hesitates to differ with an experienced teacher such as Dr. Kenny, one might well think it better to follow an inductive treatment throughout in a case-book, by commencing with specific torts, rather than to adopt Sir Frederick Pollock's method of presenting first the general principles of liability.

This collection offers a greater diversity and quantity of cases than the earlier volume, many of the opinions being considerably abridged. The compiler has wisely not confined himself to English cases. Thus, he summarizes and gives extracts from *Vegeahn v. Guntner* (167 Mass. 92), though this treatment is hardly adequate for a full appreciation of the case and the opinion of Mr. Justice Holmes. An interesting note on *Fair Comment* (p. 318) cites the recent *Cherry Sisters' case* in Iowa (114 Ia. 298). Portions of the opinion in the famous *Roberson Case* (171 N. Y. 538), denying the right of privacy, are printed, and in a note (p. 367) referring to the article of Messrs. Warren and Brandeis on "The Right to Privacy" in 4 HARV. L. REV. 193, the editor comments on the failure of the "effort of the Harvard Law Review to provide a remedy." Probably by this time English readers know that the narrow view of the New York court has been changed by statute and that, still more recently, the New York doctrine has been repudiated on common law grounds by the Georgia court. See 18 HARV. L. REV. 625. In this connection, Dr. Kenny prints a most interesting extract from an Indian decision, showing that in view of local domestic conditions, the right of privacy is recognized in India to a very wide extent. The numerous footnotes throughout the volume, though unpretentious, are suggestive. But in one of these notes the editor seems to lend unwarranted countenance to the theory of degrees of negligence. See 2 AMES & SMITH CAS. TORTS, 2d ed., 143 *et seq.*